

## **REMARKS**

In the above Office Action, the Examiner rejected claims 1, 6, 9 and 10 under 35 U.S.C. §103(a) for being obvious over U.S. Patent No. 7,037,214 to Nakahara et al. in view of Kouno. In addition, claims 3-5, 11, 12 and 14 were rejected for being obvious over Nakahara et al. in view of Kouno further in view of Davis.

Since Nakahara et al. issued on May 2, 2006 or after the effective filing date of this application, which is the filing date of December 8, 2003 of International Application No. PCT/JP2003/015670, (35 U.S.C. §363), it is only available as a prior art reference against this case as of its filing date of December 26, 2002 (35 U.S.C. §102(e)).

This application claims priority of Japanese Application No. 2002-355821 filed December 6, 2002. A certified copy of the Japanese Application was filed in the International Application. See Notice of Acceptance of December 23, 2005 and paragraph 12 of the Office Action Summary. A certified translation of Japanese Application No. 2002-355821 filed December 6, 2002 was filed in this case on August 13, 2007.

Claims 1, 3, 4, 9 and 10 are supported by the Japanese application. While the subject matter of claims 4-6 is not, these claims depend from claims 3. Similarly, while the subject matter of claims 11 and 12 is not supported by the Japanese application, these claims depend from claim 10.

Accordingly, under the provisions of §119 it is believed Applicants are entitled to December 6, 2002 as their effective filing date for the claims now pending in this case which is prior to the effective date of Nakahara et al. as a prior art reference under 35 U.S.C. §102(e). Even if the teachings the Examiner is relying on in support of his

rejections are taught in U.S. Publication No. 2003/0125127, published July 3, 2003, this is still subsequent to Applicants' effective filing date of December 6, 2002.

Accordingly, it is submitted that Nakahara et al. is not available as a prior art reference in this case. Since it is the primary reference in both grounds of rejection, their withdrawal as grounds of rejection of the claims is, therefore, requested. For a further discussion of the Kouno and Davis references, please see the Reply filed April 7, 2008.

Even though the Examiner allowed claims 13, 15 and 16, they have been cancelled.

It is believed claims 1, 3-6, 9-12 and 14 are in condition for allowance.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 1, 2008

By: 

Arthur S. Garrett  
Reg. No. 20,338  
(202) 408-4091

1690900\_1.DOC